THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

Writ Petition No.23817 of 2000

ORDER:

1 Being dissatisfied with the compensation awarded to her by the land acquisition officer for the land acquired from her under the provisions of the Land Acquisition Act (the Act) petitioner sought a reference under Section 18 of the Act. The reference Court, after considering the evidence adduced by both parties, enhanced the compensation, but awarded interest only at 9% per annum from the date of taking over possession till the date of judgment. Being dissatisfied with the interest warded by the reference court, petitioner preferred an appeal to this Court, which was dismissed and that judgment became final as no further appeal was preferred.

2 Alleging that in view of the Land Acquisition (Amendment) Act, 1984 (Amendment Act), she is entitled to interest at 15% p.a. but not at 9% p.a petitioner filed this Writ Petition seeking amendment of the award passed by the reference court and confirmed by this Court.

3 When I questioned the learned counsel for the petitioner regarding the maintainability of a Writ Petition for enhancement of the interest in an award passed by a reference court and confirmed by this Court, the learned counsel relying on ***K. Loka Reddy Vs. Tahsildar-cum-Land Acquisition Officer, Pargi, Ranga Reddy District*** [1] contended that this Court in exercise of writ jurisdiction can pass appropriate orders even in cases like this.

4 The facts in the decision relied on by the learned counsel for the petitioner are entirely different from the facts of this case. In that case the Writ Petition was filed challenging the validity of payment of compensation awarded under the Act by the land acquisition officer by way of installments. By way of an additional ground a plea was raised that the petitioners are also entitled to relief extended under the Amendment Act. The learned Judge held that though the question in the Writ Petition basically related to payment of compensation ordered

to be paid by way of installments by the land acquisition authorities, petitioners therein can seek relief regarding the benefit granted by the Amendment Act also and so the land acquisition authorities can be directed to give that additional relief also. That case does not relate to any judicial order. Proceedings of the land acquisition officer only were questioned before the learned Judge in that case. In this case award passed by the land acquisition officer was referred to a reference Court and the reference court while enhancing the compensation payable, awarded interest at 9% p.a. Being aggrieved by the interest awarded, petitioner approached this Court, and this court confirmed the interest granted by the reference Court. So if the petitioner were to feel that she is entitled to the benefits of the Amendment Act, she has to approach the reference court or this Court on the appellate side seeking amendment of the award. Petitioner through a Writ Petition cannot seek amendment of the award passed by the reference court, which was confirmed by this Court. Therefore, this petition is not maintainable.

5 One of the contentions of the learned counsel for the petitioner is that since a right conferred by a statute was not extended to her, the petitioner has a right to approach this court seeking benefit of that Act. That prima facie does not apply to the facts of this case because appeal preferred by the petitioner was disposed of on 16.04.1993 i.e. long subsequent to coming into force of the Amendment Act and as stated earlier, the remedy if any of the petitioner is to approach the reference Court or seek review of the order of this court passed in exercise of its appellate jurisdiction but not by way of filing a Writ Petition.

6 Hence the Writ Petition is dismissed with costs.

C.Y.Somayajulu, J.

26.12.2007

kvsn

[1] 1986 (2) ALT 52